IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

WP(C).No. 10292 of 2006(A)

PETITIONER:

JOE LAWRANCE, S/O.LAWRANCE,
AGED 28 YEARS, H.S.A. ST.FRANCIS, H.S.S.MATTOM,
RESIDING AT VELUTHUKKAREN HOUSE, P.O.ARIYANNUR,
THRISSUR.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS:
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1. **THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF EDUCATION, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR OF PUBLIC INSTRUCTIONS, THIRUVANANTHAPURAM.**

3. **THE DISTRICT EDUCATION OFFICER, CHAVAKKAD, THRISSUR DISTRICT.**

4. **THE CORPORATE MANAGER, ST.FRANCIS SCHOOLS, MATTOM, THRISSUR.**

BY SR.GOVERNMENT PLEADER SRI. T.T. MUHAMOOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/10/2007 ALONG WITH WPC NO. 15171 OF 2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.10292/2006 A

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE APPOINTMENT ORDER DTD. 11/06/2001 ISSUED BY THE 4TH RESPONDENT.**

EXT.P2: **COPY OF THE JUDGMENT DTD. 13/12/2001 IN O.P.NO.30550/2001 OF THIS HON'BLE COURT.**

EXT.P3: **COPY OF THE JUDGMENT DTD. 08/01/2004 OF THIS HON'BLE COURT.**

EXT.P4: **COPY OF THE JUDGMENT DTD. 14/06/2004 OF THIS HON'BLE COURT IN CCC.NO.703/2004.**

EXT.P5: **COPY OF THE ORDER DTD. 14/06/2004 ISSUED BY THE 4TH RESPONDENT.**

EXT.P6: **COPY OF THE REPRESENTATION DTD. 06/03/2006 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**

EXT.P7: **COPY OF THE REPRESENTATION DTD. 06/03/2006 SENT TO THE 4TH RESPONDENT.**

/TRUE COPY/

P.A.TO JUDGE

KSS

S. SIRI JAGAN, J.

WP(C).Nos. 10292 &
15171 OF 2006

Dated this the 25th October, 2007.

JUDGMENT

These writ petitions are filed by a UPSA and a Full Time Menial of the fourth respondents' Schools . They were originally appointed on 8.6.2001 and 11.6.2001 respectively by the then Manager. Thereafter there was a dispute regarding right to manage the School. Another Manager terminated the service of the petitioners. Pursuant to the directions of this court they were reinstated. Again there was a change of management and the service of the petitioners were again terminated. In litigation initiated by the petitioners the rights of the petitioners to continue have been upheld. It was held that their appointments by the original Manager was to be treated as appointments by validly appointed Manager. In spite of the same the petitioners were not reinstated in service. A contempt case followed, in which ultimately Ext.P4 judgment was passed recording the fact that petitioners were reinstated and that they would be given due benefits from the date of their original appointment. The complaint of the petitioners now in these writ petitions is that in

spite of the above, petitioners have not been paid salary and allowances for the period during which they were kept out of service. The contention is that since they were kept out of service for no fault of theirs and their right to continue in service from the original date of appointment has been upheld by this Court, the respondents may be directed to pay service benefits including arrears of salary for the period during which they were illegally kept out of service including vacation salary.

2. Notices have been served on the fourth respondent-Corporate Manager. He has not chosen to appear and contest the claims of the petitioner. The Learned Govt. Pleader appearing on behalf of the department would contend that the department is not liable to pay salary and allowances for the period when the petitioners' were kept out of service illegally by the Manager.

3. I am unable to agree with the contention of the learned Govt. Pleader. Now that this Court has upheld the right of the petitioners to continue in service, from the original date of appointment the petitioners are entitled to all service benefits arising

out of such decision and it is for the educational authorities to ensure that they get the same. Of course if the petitioners were not allowed to work by the concerned Manager, the Manager would be liable to reimburse the salary paid to the petitioners. If the department has got such a case, they are perfectly free to recover the amounts so paid to the petitioners, from the Manager. But for that payment of benefits to the petitioners need not be postponed.

4. In the above circumstances I am of the opinion that the third respondent, shall, in the first instance pay the service benefits including salary and allowances to the petitioners for the periods during which they were kept out of service by the Manager. However, it would be open to the third respondent to take appropriate steps to recover the amounts so paid to the petitioners from the fourth respondent-Corporate Manager. Orders in this regard shall be passed by the third respondent within two months and forwarded to the fourth respondent Corporate-Manager within one month. The respective Headmaster of the School on receipt of this order, shall raise necessary bills for the arrears and forward the same to the

District Educational Officer within one month from the date of receipt of a copy of the order. The third respondent District Educational Officer shall see that the amounts due to the petitioners are disbursed without delay. If the DEO is of the opinion that the amounts so paid to the petitioners have to be recovered from the Manager, he shall pass orders on the same after affording an opportunity of being heard to the Manager.

Writ petitions are disposed of accordingly.

S. SIRI JAGAN
Judge

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